



To the Honorable Council  
City of Norfolk, Virginia

March 10, 2015

From: David S. Freeman, AICP, Director of General  
Services

**Subject:** Ordinance to approve a  
lease agreement with Verizon  
Virginia LLC for a parcel of land  
located at Fairlawn Elementary  
School/Recreation Center

Reviewed: Sabrina Joy Hogg  
Sabrina Joy-Hogg, Deputy City Manager

**Ward/Superward:** 4/7

Approved: Marcus D. Jones  
Marcus D. Jones, City Manager

**Item Number:**

**PH-4**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** Verizon Global Real Estate /Verizon Virginia, LLC  
7701 E. Telecom Parkway  
Mail Code: FLTDSB1W  
Temple Terrace, FL 33637

III. **Description**

This agenda item is an Ordinance to approve a lease agreement between the City and Verizon Virginia, LLC. This lease is being renewed at revised terms for a parcel of land, on the grounds of Fairlawn Elementary School/ Recreation Center. The term of the lease agreement is for five years commencing July 1, 2015 and to end on June 30, 2020.

IV. **Analysis**

The lease agreement allows Verizon to continue to use and operate the Premises for the maintenance and operation of a communications equipment building located at Fairlawn Elementary School/ Recreation Center. The parcel area is approximately 1600 Sq Ft.

**V. Financial Impact**

The applicant will pay the City an annual rent in the amount of \$2,695.31 for the first year of the Term with a three percent yearly increase, paid on an annual basis. The following sums are calculated for the remaining years of the Term on the basis of annual increases of three percent and shall be paid on or before July 1 of the Period to which they respectively apply.

<u>Period of Term</u>	<u>Annual Payments</u>
July 1, 2016 – June 30, 2017	\$2,776.17
July 1, 2017 – June 30, 2018	\$2,859.46
July 1, 2018 – June 30, 2019	\$2,945.24
July 1, 2019 – June 30, 2020	\$3,033.59

**VI. Environmental**

There are no known environmental issues associated with this lease.

**VII. Community Outreach/Notification**

Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

**VIII. Board/Commission Action**

N/A

**IX. Coordination/Outreach**

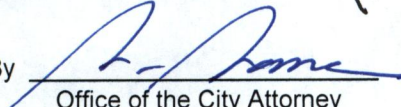
This letter has been coordinated with the Department of General Services - Office of Real Estate and the City Attorney's Office.

Supporting Material from the City Attorney's Office:

- Ordinance
- Lease Agreement

02/09/15 tsv

Form and Correctness Approved 

By   
Office of the City Attorney

NORFOLK, VIRGINIA

Contents Approved:

By   
DEPT.

## ORDINANCE No.

AN ORDINANCE APPROVING A LEASE AGREEMENT WITH VERIZON VIRGINIA, LLC, FOR A PARCEL OF LAND AT FAIRLAWN ELEMENTARY SCHOOL/RECREATION CENTER, IN THE CITY OF NORFOLK.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the terms and provisions of the Lease Agreement between the City of Norfolk, as lessor, and Verizon Virginia, LLC, as lessee, a copy of which is attached hereto as exhibit A, by which the City of Norfolk leases to Verizon Virginia, LLC, a parcel of land, on the grounds of Fairlawn Elementary School/ Recreation Center, in the City of Norfolk, Virginia, upon conditions specifically set forth therein, are hereby approved.

Section 2:- That the City Manager is hereby authorized to execute the lease and to do all things necessary and proper to carry out its terms.

Section 3:- That this ordinance shall be in effect from and after thirty days from the date of its adoption.

**LEASE AGREEMENT**

**THIS AGREEMENT** made this \_\_\_\_\_ day of \_\_\_\_\_, 2015 by and between the **CITY OF NORFOLK**, a municipal corporation of the State of Virginia (Lessor) and **VERIZON VIRGINIA LLC**, (Lessee).

**WITNESSETH THAT:**

Lessor, for and in consideration of the rents, covenants and agreements hereinafter mentioned, reserved and contained, to be paid, kept and performed by Lessee, has demised and leased and does hereby demise and lease unto Lessee, and Lessee does hereby lease and hire from Lessor, the land on the grounds of the Fairlawn Elementary School/ Recreation Center, as shown in Exhibit A and described in Exhibit B (hereinafter "Premises"), both exhibits hereto attached and incorporated by reference.

1. **TERM OF LEASE**

Lessor leases unto Lessee and Lessee hires from Lessor the Premises for a term of five (5) years to begin on July 1, 2015 (the "Commencement Date"), and to end on June 30, 2020.

2. **USE**

Lessee covenants and agrees to use and occupy the Premises for the maintenance and operation of a communications equipment building.

3. **ACCEPTANCE OF PREMISES**

Lessee acknowledges that it is familiar with the Premises and hereby agrees to accept the Premises in their present condition, as is. Lessee further acknowledges that neither Lessor nor anyone on Lessor's behalf has made any representations or warranties with respect to the condition of the Premises.

4. **RENT**

4.1 Lessee shall pay to Lessor annual rent of Two Thousand Six Hundred Ninety-Five Dollars and Thirty-One Cents (\$2,695.31) for the first year of the Term, said rent to be paid in advance by the first day of July 2015. The following sums are calculated for the remaining years of the Term on the basis of annual increases of three percent (3%) and shall be paid on or before July 1 of the Period to which they respectively apply:

<u>Period of Term</u>	<u>Annual Payments</u>
July 1, 2016 – June 30, 2017	\$2,776.17
July 1, 2017 – June 30, 2018	\$2,859.46
July 1, 2018 – June 30, 2019	\$2,945.24
July 1, 2019 – June 30, 2020	\$3,033.59

4.2 No payment by Lessee or receipt by Lessor of a lesser amount than the Rent stipulated in this lease shall be deemed other than on account of the stipulated rent, nor shall any endorsement or statement on any check or payment, or any writing accompanying any check or payment of such rent, be deemed an accord and satisfaction, and Lessor may accept such check or payment without prejudice to Lessor's right to recover the balance of such rent or pursue any other remedy provided in this lease.

5. **INSURANCE**

5.1 Lessee shall obtain and maintain Lessor's and Lessee's Public Liability Insurance for the joint and separate benefit of Lessor and Lessee, in an amount not less than \$500,000 for injury to or death of one person, \$1,000,000 for any one occurrence and \$50,000 for property damage, or in such higher limits as shall be reasonably required by Lessor.

5.2 At least 15 days prior to the Commencement Date, Lessee shall deliver to Lessor certificates evidencing the issuance of the policy required by Section 5.1 and also

evidencing that the policy is then in effect. All insurance policies shall provide for 30 days advance notice in writing to Lessor prior to cancellation or modification.

5.3 Lessee agrees to look solely to the proceeds of its own insurer for indemnity against exposure for casualty losses of property or business interruption. Lessee warrants that its liability, property and business interruption insurers shall not have rights against Lessor by virtue of assignment, subrogation, loan agreement or otherwise. Lessee is not required to defend, indemnify or hold harmless Lessor, its officers, agents and employees or any of them, from assertions that Lessor or said persons, or any of them, were negligent in the use of the Premises, nor is Lessee required to defend, indemnify or hold harmless Lessor and said persons from liability based on Lessor's and/or said persons' negligence in the use of the Premises.

5.4 Lessee shall have the right to self-insure for all coverage required under this Paragraph 5 for any claim of less than or equal to \$2,000,000.00.

6. **UTILITIES**

Lessee shall, at its own cost and expense, pay all utility meter and services charges, including but not limited to those for gas, sewer, electricity, water, standby sprinkler charges and any deposits required by utility suppliers with respect to the Premises.

7. **REPAIRS**

Lessee shall keep and maintain the Premises in a good and complete state of repair and condition, except for ordinary wear and tear. Lessee shall make all repairs and replacements of every kind and character, interior and exterior, structural and nonstructural, ordinary and extraordinary, including, but not limited to plumbing, heating, ventilation, air conditioning and electrical equipment and systems, lights and lighting, stanchions and fences, if any, and sidewalks and paved areas, necessary to preserve and maintain the Premises and the appurtenances belonging thereto, and will not call upon Lessor during the term of this lease for the making of any repairs or replacements whatsoever. All repairs and replacements shall:

- (a) be performed in a good and workmanlike manner,
- (b) be at least substantially equal in quality and usefulness to the original work,
- (c) be of first-class modern character, and
- (d) not diminish the overall value of the Premises.

8. **REQUIREMENTS OF PUBLIC AUTHORITIES**

Lessee shall suffer no waste or injury in or about the Premises and shall comply with all federal, state, county and municipal laws, ordinances and regulations applicable to the structure, use and occupancy of the Premises, including, without limiting the generality of the foregoing, the making of any structural repairs that may be required in order to comply with said laws, ordinances and regulations. In addition, Lessee shall effect the correction, prevention and abatement of nuisances, violations or other grievances in, upon or connected with the Premises and shall also promptly comply with all rules, orders and regulations of the Board of Fire Underwriters and any insurance company insuring the Premises.

9. **NET RENT**

It is the purpose and intent of Lessor and Lessee that the rent shall be absolutely net to Lessor, so that this lease shall yield, net, to Lessor, the rent specified in Section 4.1 hereof, in each month during the term of this lease without any abatement, deduction, set off or counterclaim, and that all costs, expenses and obligations of every kind and nature, including leasehold taxes if applicable, whatsoever relating to the Premises which may arise or become due during or out of the term of this lease, except debt service arising in connection with any mortgage placed on the Premises by Lessor, unless the charge or obligation arises as a result of an Event of Default (as hereinafter defined) by Lessee hereunder, in which case such charge shall be paid by Lessee.

10. **INDEMNIFICATION**

Lessee shall indemnify and save harmless Lessor from all fines, penalties, costs, suits, proceedings, liabilities, damages, claims and actions of any kind arising out of the use and

occupation of the Premises, or by reason of any breach or non-performance of any covenant or condition of this lease by Lessee. This indemnification shall extend to all claims by any person or party for death or injury to persons and damage to any property, and to legal expenses, including reasonable attorneys' fees, incurred by Lessor in the defense of such claims or incurred by Lessor as a result of a breach of any provision of this lease by the Lessee, except as may be caused by or result from the negligence or willful misconduct of Lessor, its agents or employees, or Lessor's failure to perform its obligations under this Lease.

11. **NON-LIABILITY OF LESSOR**

Lessor shall not be liable for any damage or injury which may be sustained by Lessee or any other person as a consequence of the failure, breakage, leakage or obstruction of the water, plumbing, steam, gas, sewer, waste or spoil pipes, roof, drains, leaders, gutters, valleys, downspouts or the like, or of the electrical, ventilation, air conditioning, gas, power, conveyor, refrigeration, sprinkler, heating or other systems, elevators or hoisting equipment, if any, in the Premises; or by reason of the elements; or resulting from acts, conduct or omissions on the part of Lessee or of Lessee's agents, employees, guests, licensees, invitees, assignees or successors, or on the part of any other person or party.

12. **ALTERATIONS**

Lessee covenants and agrees that it will not make any improvements, changes, installations, renovations, additions or alterations in and about the Premises without the prior written consent of Lessor, such consent not to be unreasonably withheld, and approval by the Norfolk Design Review Committee.

13. **ASSIGNMENT AND SUBLETTING**

With the exception of assignments to its affiliates, parent company, or any entity acquiring a majority interest in the Lessee, Lessee will not assign this lease or sublet the Premises without obtaining Lessor's prior consent in writing, such consent not to be

unreasonably withheld. Any change in ownership or control of management of the Lessee, directly or indirectly, whether by merger, consolidation or otherwise, shall be deemed an assignment for the purposes of this section. If this lease be assigned with the consent of Lessor as aforesaid, or if the Premises or any part thereof be underlet or occupied by anybody other than Lessee, Lessor may collect rent from the assignee, under Lessee or occupant and apply the net amount collected to the rent herein reserved; but notwithstanding such assignment, subletting or underletting, Lessee herein shall remain liable for the payment of rent reserved hereunder and for the performance of all obligations imposed upon Lessee by this lease.

14. **AIR AND WATER POLLUTION**

Lessee expressly covenants and agrees to indemnify, defend and save Lessor harmless against any claim, damage, liability, cost, penalty, or fine which Lessor may suffer as a result of air, noise or water pollution caused by Lessee in its use of the Premises. Lessee covenants and agrees to notify Lessor immediately of any claim or notice served upon it containing any allegation that Lessee is causing air, noise, or water pollution. Lessee, in any event, will take immediate steps to halt, remedy or cure any such pollution caused by Lessee in connection with its use of the Premises.

15. **COVENANT AGAINST LIENS**

Lessee agrees that it shall not encumber, or suffer or permit to be encumbered, the Premises or the fee thereof by any lien, charge or encumbrance, and Lessee shall have no authority to mortgage or hypothecate this lease in any way whatsoever.

16. **SUBORDINATION**

This lease shall be subject and subordinate at all times to any lien of any mortgage now or hereafter placed on the Premises or any part thereof without the necessity of any further instrument or act on the part of Lessee to effectuate such subordination, but Lessee covenants and agrees to execute and deliver upon demand such further instrument or instruments

evidencing such subordination of this lease to the lien of any such mortgage as shall be desired by a mortgagee.

17. **ENVIRONMENTAL COMPLIANCE**

(a) For purposes of this section:

(i) "Hazardous Substances" include any pollutants, dangerous substances, toxic substances, hazardous wastes, hazardous materials or hazardous substances as defined in or pursuant to the Resource and Conservation Recovery Act (42 U.S.C. SS6901 et seq.) ("RCRA"), the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. SS9601 et seq.) ("CERCLA") or any other federal, state or local environmental law, ordinance, rule or regulation.

(ii) "Release" means releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping.

(iii) "Notice" means any summons, citation, directive, order, claim, litigation, investigation, proceeding, judgment, letter or other communication, written or oral, actual or threatened, from any authority of the Commonwealth of Virginia, the United States Environmental Protection Agency ("USEPA") or other federal, state or local agency or authority, or any other entity or any individual, concerning any intentional or unintentional act or omission resulting or which may result in the Releasing of Hazardous Substances into the waters or onto the lands of the Commonwealth of Virginia, or into waters outside the jurisdiction of the Commonwealth of Virginia or into the "environment", as such terms are defined in CERCLA. Notice shall include the imposition of any lien on any real property, personal property or revenues of the Lessee, including but not limited to any of Lessee's interest in the Premises or any of Lessee's property located thereon, or any violation of federal, state or local environmental laws, ordinances, rules, regulations, governmental actions, orders or permits, or any knowledge, after due inquiry and investigation, of any facts which could give rise to any of the above.

(b) To the extent that Lessee may be permitted under applicable law to use the Premises for the generating, manufacture, refining, transporting, treatment, storage, handling, disposal, transfer or processing of Hazardous Substances, solid wastes or other dangerous or toxic substances, Lessee shall insure that said use shall be conducted at all times strictly in accordance with applicable statutes, ordinances and governmental rules and regulations. Lessee shall not cause or permit, as a result of any intentional or unintentional act or omission, a Release of Hazardous Substances on the Premises. If any such intentional or unintentional act or omission results in such a Release of Hazardous Substances on the Premises, Lessee shall promptly clean up and remediate such Release in accordance with the applicable federal, state and local regulations and to the satisfaction of a reasonable Lessor.

(c) Lessee shall comply with all applicable federal, state and local environmental laws, ordinances, rules and regulations, and shall obtain and comply with any and all permits required thereunder or any successor or new environmental laws. Upon the receipt of any Notice, Lessee shall notify Lessor promptly in writing, detailing all relevant facts and circumstances relating to the Notice.

(d) The requirements of this Section 17 shall apply to any successor in interest to the Lessee, whether due to merger, sale of assets or other business combination or change of control.

(e) Lessee hereby agrees to defend (with counsel satisfactory to Lessor) and to indemnify and hold Lessor harmless from and against any and all claims, losses, liabilities, damages and expenses (including, without limitation, reasonable cleanup costs and attorney's fees arising under this indemnity) which may arise directly or indirectly from any use or Release of Hazardous Substances by Lessee, its contractors, employees, or invitees on the Premises and losses and claims against Lessor resulting from Lessee's failure to comply strictly with the

provisions of this Section 17. The provisions of this Section 17 shall survive the expiration or earlier termination of this lease for those occurrences arising out of Lessee's use of the Premises.

**18. SURRENDER BY LESSEE AT END OF TERM**

18.1 Lessee will surrender possession of the Premises and remove all structures, improvements, goods and chattels and other personal property in the possession of Lessee, by whomsoever owned, at the end of the term of this lease, or at such other time as Lessor may be entitled to re-enter and take possession of the Premises pursuant to any provision of this lease, and leave the Premises in as good order and condition as they were at the beginning of the term, reasonable wear and tear excepted. If Lessee fails to surrender possession and remove all structures, improvements, goods and chattels at the time aforesaid, Lessee will pay to Lessor the rent reserved by the terms of this lease for such period as Lessee either holds over possession of the Premises or allows its structures, improvements, goods and chattels or other personal property in its possession at such time to remain in the Premises, and in addition thereto, statutory penalties and all other damages which Lessor shall suffer by reason of Lessee holding over in violation of the terms and provisions of this lease, including all reasonable claims for damages made by any succeeding lessee or purchaser of the Premises against Lessor which may be founded upon delay by Lessor in giving possession of the Premises to such succeeding lessee or purchaser, so far as such damages are occasioned by the holding over of Lessee.

18.2 If Lessee fails to remove all goods and chattels and other personal property in possession of Lessee, by whomsoever owned, at the end of the term of this lease, or at such other time as Lessor may be entitled to re-enter and take possession of the Premises pursuant to any provision of this lease, Lessee hereby irrevocably makes, constitutes and appoints Lessor as the agent and attorney-in-fact of Lessee to remove all goods and chattels and other personal property, by whomsoever owned, from the Premises to a reasonably safe place of storage, such moving and storage to be at the sole cost and expense of Lessee, and Lessee

covenants and agrees to reimburse and pay to Lessor all expenses which Lessor incurs for the removal and storage of all such goods and chattels. In addition, at the option of Lessor, after thirty days written notice from Lessor, Lessee shall be deemed to have abandoned such goods, chattels and other personal property and the same shall become the property of Lessor. Lessee shall reimburse and pay Lessor for all expenses incurred in the removing or disposing of the abandoned property.

18.3 No act or thing done by Lessor shall be deemed an acceptance of the surrender of the Premises prior to the expiration or sooner termination of this lease, unless Lessor shall execute a written release of Lessee. Lessee's liability hereunder shall not be terminated by the execution by Lessor of a new lease of the Premises.

19. **DEFAULT BY LESSEE**

19.1 If before or during the term of this lease there shall occur any of the following events ("Events of Default"):

(a) if Lessee shall make a general assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts as they become due, be adjudicated a bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, or shall file an answer admitting or not contesting the material allegations of a petition against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Lessee or of any material part of its assets, and such appointment shall not have been vacated; or

(b) if, within 60 days after the commencement of any proceeding against Lessee seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or if, within 60 days after the appointment without the

consent or acquiescence of Lessee of any trustee, receiver or liquidator of Lessee or of any material part of its assets, such appointment shall not have been vacated; or

(c) if the interest of Lessee in the Premises shall be sold under execution or other legal process; or

(d) if Lessee shall fail to pay any installment of the rent within five (5) days of written notice from Lessor; or

(e) if Lessee shall fail to perform or observe any requirement, obligation, agreement, covenant or condition of this lease, other than the payment of any installment of rent, and any such failure shall continue for 30 days after Lessor gives Lessee notice thereof, or if such failure cannot be remedied within 30 days, then for a reasonable time thereafter, provided Lessee commences to remedy such failure within said 30-day period and prosecutes the same to completion with diligence; or

(f) if any representation or warranty contained in this lease shall prove to be incorrect in any material respect on the date upon which it was made;

then at any time following any of such Events of Default, Lessor, without waiving any other rights herein available to Lessor at law or in equity, may either (1) give Lessee notice of termination of this lease, or (2) without terminating this lease, give Lessee notice of Lessor's intention to re-enter and take possession of the Premises, with or without legal process. The giving of either of such notices to Lessee shall terminate Lessee's right to possession of the Premises under this lease without prejudice, however, to the rights of Lessor to exercise all other available legal remedies and without discharging Lessee from any of its liabilities hereunder.

19.2 If Lessor elects to terminate Lessee's right to possession of the Premises under Section 19.1 following an Event of Default, Lessor may re-enter and take possession of the Premises, with or without legal process, and Lessee hereby waives any claim for damages as a

result thereof, and Lessee shall be obligated to pay to Lessor as damages upon demand, and Lessor shall be entitled to recover of and from Lessee:

(a) all rent which is in arrears as of the date of termination of Lessee's right to possession, plus

(b) the cost to Lessor of all reasonable legal and other expenses and costs, including attorneys' fees, incurred by Lessor in obtaining possession of the Premises, in enforcing any provision of this lease, in preserving the Premises during any period of vacancy, in making such alterations and repairs to the Premises as the Lessee was required to make pursuant to the terms of this lease and in reletting the Premises, including all reasonable brokerage commissions therefore.

19.3 Lessor may relet the Premises, or any part thereof and may grant concessions or charge a rent in excess of that agreed to in this lease agreement. In that event, Lessee shall pay rent, damages, costs and expenses, as specified in 19.2 above, and the net amount of rent collected and received by Lessor as a result of reletting the Premises during the balance of the term shall be applied against the rent still owed by Lessee, not against damages or expenses. Lessee shall have no right to any excess.

19.4 Lessor may sue for and collect any amounts which may be due pursuant to the provisions of Section 19.2 above from time to time as Lessor may elect, but no such suit shall bar or in any way prejudice the rights of Lessor to enforce the collection of amounts due at any time or time thereafter by a like or similar proceeding.

19.5 Lessee agrees to pay all costs of proceedings by Lessor for the enforcement of any breach of the terms and conditions of this lease by the Lessee, including reasonable attorneys' fees and expenses, payable immediately upon the filing of any suit for possession or money damages.

19.6 No remedy herein conferred upon or reserved to Lessor is intended to be exclusive of any other remedy herein or by law provided, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. The receipt and acceptance by Lessor of rent with knowledge of the default by Lessee in any of Lessee's obligations under this lease shall not be deemed a waiver by Lessor of such default. Nothing contained in this lease shall limit or prejudice the right of Lessor to prove for and obtain in proceedings for bankruptcy or insolvency an amount equal to the maximum allowed by any statute or rule of law in effect at the time when, and governing the proceedings in which, the damages are to be proved, whether or not the amount be greater, equal to, or less than the amount of the loss or damages referred to above.

19.7 No waiver by Lessor of any Event of Default or any default by Lessee in any covenant, agreement or obligation under this lease shall operate to waive or affect any subsequent Event of Default or default in any covenant, agreement or obligation hereunder, nor shall any forbearance by Lessor to enforce a right or remedy upon an Event of Default or any such default be a waiver of any of its rights and remedies with respect to such or any subsequent default or in any other manner operate to the prejudice of Lessor.

20. **LATE FEE**

For any payments of rent paid after the date such payment was due, Lessee shall pay a late fee of 5% of the amount not paid when due, within five (5) days after receipt of written notice. The payment of any late fee shall not in any way be curative of any Event of Default and payments pursuant to this Section 20 shall not affect any of Lessor's rights and remedies under Section 19.

21. **QUIET ENJOYMENT**

Lessor covenants that Lessee, on paying the rental and performing the covenants and conditions contained in this lease, shall and may peaceably and quietly have, hold and enjoy the Premises for the term aforesaid.

22. **CERTIFICATES BY LESSEE**

Lessee agrees at any time and from time to time during the term of this lease, within fifteen (15) days after written request from Lessor, to execute, acknowledge and deliver to Lessor or to a third party a statement in writing certifying that this lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modification), and the dates to which the rent and other charges have been paid in advance, if any, and stating whether, to the best knowledge of Lessee, Lessor is in default in the performance of any covenant, agreement or condition contained in this lease, and if so, specifying each such default of which Lessee may have knowledge. Such third party shall have the right to rely upon the contents of any such written statement of Lessee.

23. **NOTICES**

Whenever it is provided herein that notice, demand, request or other communication shall or may be given to or served upon either of the parties, or if either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or the Premises, each such notice, demand, request or other communication shall be in writing, and, any law or statute to the contrary notwithstanding, shall be given or served as follows:

**Lessor:**

City of Norfolk  
Bureau of Real Estate  
Department of General Services  
232 East Main Street, Suite 250  
Norfolk, Virginia 23510

**Lessee:**

Verizon Global Real Estate  
Attn: Lease Administration  
7701 E. Telecom Parkway  
Mail Code: FLTDSB1W  
Temple Terrace, FL 33637

24. **CAPTIONS**

The captions to the sections of this lease are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of this lease or any part thereof nor in any way affect this lease or any part thereof.

25. **COVENANTS AND CONDITIONS**

All of the terms and provisions of this lease shall be deemed and construed to be covenants and conditions to be performed by the respective parties as though words specifically expressing or importing covenants and conditions were used in each separate term and provision hereof.

26. **WAIVER OF TRIAL BY JURY**

Lessor and Lessee hereby mutually waive their rights to trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this lease, Lessee's use or occupancy of the Premises, and any claim of injury or damage.

27. **DEFINITION OF TERM "LESSOR"**

When the term "Lessor" is used in this lease it shall be construed to mean and include only the then owner of the fee title of the Premises. Upon the transfer by Lessor of the fee title to the Premises, Lessor shall give Lessee notice in writing of the name and address of Lessor's transferee. In such event, the then Lessor shall be automatically free and relieved from and after the date of such transfer of title of all personal liability with respect to the performance

of any of the covenants and obligations on the part of Lessor herein contained to be performed, provided any such transfer and conveyance by Lessor is expressly subject to the assumption by the grantee or transferor of the obligations of Lessor to be performed pursuant to the terms and conditions of this lease.

28. **BROKERAGE REPRESENTATION**

Lessee hereby represents and warrants to Lessor that it did not see the Premises with, nor was it introduced to the Premises by, any real estate broker or agent thereof. Lessee further represents and warrants that it knows of no person who is entitled to a real estate brokerage commission or sum in lieu thereof in connection with the execution of this lease or the creation of the Lessee effected by this lease.

29. **COVENANTS OF FURTHER ASSURANCES**

If, in connection with obtaining financing for the Premises, a lender shall request reasonable modifications in this lease as a condition to such financing, Lessee will not unreasonably withhold, delay or defer its written consent thereto, provided that such modifications do not in Lessee's reasonable judgment increase the obligations of Lessee hereunder or materially adversely affect the leasehold interest hereby created or Lessee's use and enjoyment of the Premises.

30. **ENTIRE AGREEMENT**

This lease contains the entire agreement between the parties and shall not be modified in any manner except by an instrument in writing executed by the parties.

31. **APPLICABLE LAW**

This lease shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia and any suit arising out of this lease only shall be brought in the State or Federal Courts located in the State of Virginia. In the event of any such suit, the parties

hereto consent to the personal jurisdiction of such courts and waive any defense based on improper venue.

32. **BIND AND INURE CLAUSE**

The terms, covenants and conditions of this lease shall be binding upon and inure to the benefit of each of the parties hereto, and their respective successors and assigns.

33. **ACCESS**

Access to the leased area is to be by way of the existing curb cut and driveway currently being utilized by the Department of Utilities.

**IN WITNESS WHEREOF**, the parties have executed or have caused this lease to be executed by their duly authorized officers and their corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

**CITY OF NORFOLK**

By: \_\_\_\_\_ [SEAL]  
Marcus D. Jones, City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

**VERIZON VIRGINIA LLC**

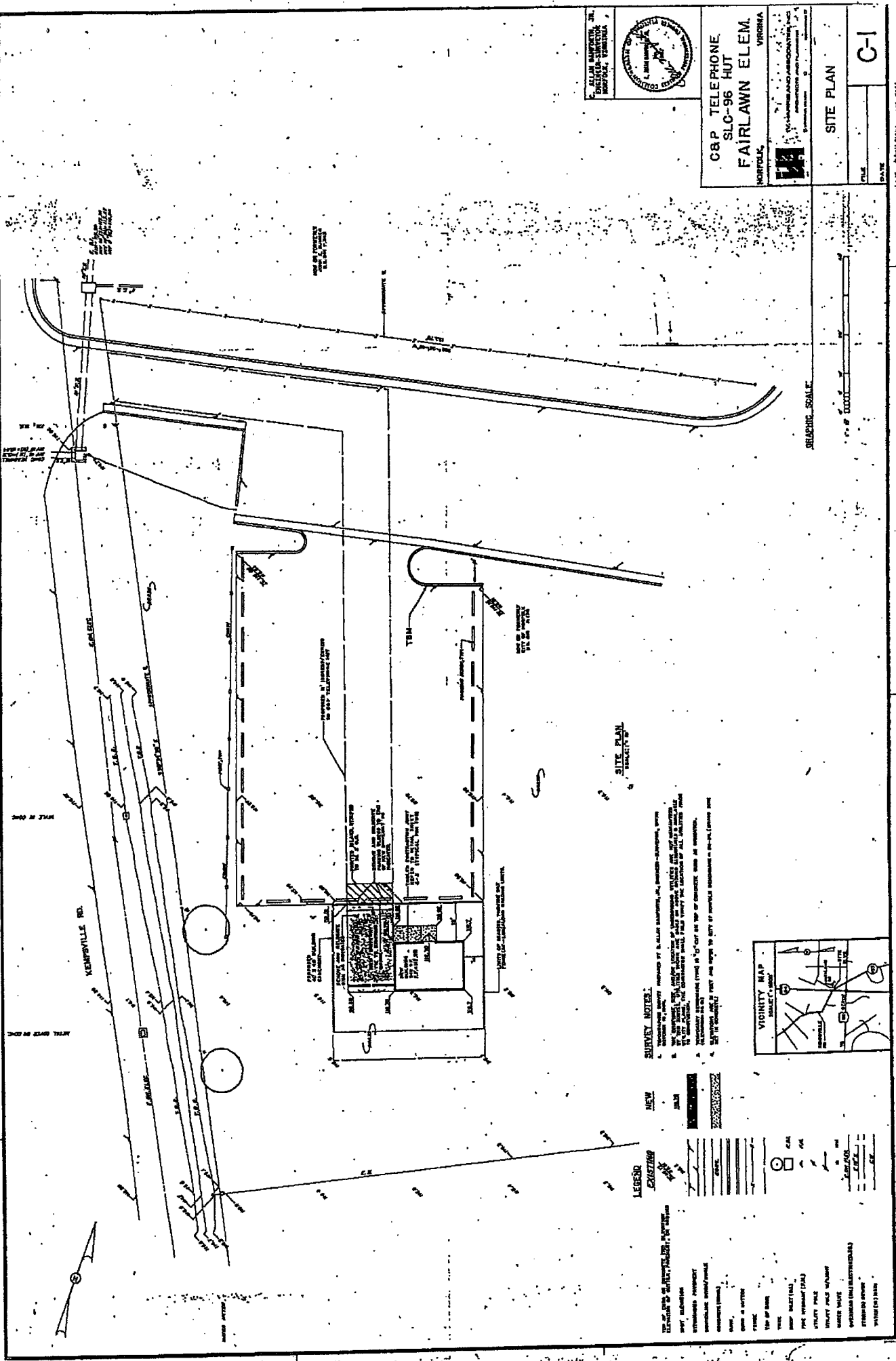
By: \_\_\_\_\_ [SEAL]  
Title: \_\_\_\_\_

APPROVED AS TO CONTENTS:

\_\_\_\_\_  
Director, General Services

APPROVED AS TO FORM & CORRECTNESS:

\_\_\_\_\_  
Deputy City Attorney



C&P TELEPHONE  
 SLC-96 HUT  
 FAIRLAWN ELEM.  
 NORFOLK, VIRGINIA

SITE PLAN  
 FILE  
 DATE

C-1

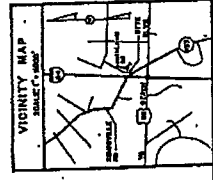
GRAPHIC SCALE



SITE PLAN

SURVEY NOTES:

1. The survey was conducted by S. L. HARRIS, JR., a Professional Engineer, State of Virginia, License No. 10,000, dated 1964.
2. The survey was conducted on or about the date of the survey, and the results are shown on this plan.
3. The survey was conducted in accordance with the Virginia Surveying Act of 1964, and the results are shown on this plan.
4. The survey was conducted in accordance with the Virginia Surveying Act of 1964, and the results are shown on this plan.



LEGEND

EXISTING

NEW

FAIRLAWN ELEM. SCHOOL

FAIRLAWN ELEM. PARK

FAIRLAWN ELEM. CHURCH

FAIRLAWN ELEM. GYMNASIUM

FAIRLAWN ELEM. AUDITORIUM

FAIRLAWN ELEM. CAFETERIA

FAIRLAWN ELEM. OFFICE

FAIRLAWN ELEM. STORAGE

FAIRLAWN ELEM. WAREHOUSE

FAIRLAWN ELEM. GARAGE

FAIRLAWN ELEM. DRIVE

FAIRLAWN ELEM. LOT

FAIRLAWN ELEM. FENCE

FAIRLAWN ELEM. SIGN

FAIRLAWN ELEM. LIGHT

FAIRLAWN ELEM. WALK

FAIRLAWN ELEM. RAMP

FAIRLAWN ELEM. STAIR

FAIRLAWN ELEM. ELEVATOR

FAIRLAWN ELEM. ESCAPE

FAIRLAWN ELEM. EXIT

FAIRLAWN ELEM. ENTRANCE

FAIRLAWN ELEM. REAR

## EXHIBIT B

All that certain 40 ft. by 40 ft. area of land abutting the southern end of a parking lot on the Fairlawn Elementary School/Recreation Center Grounds located on the east side of Kempsville Road north of Virginia Beach Boulevard.